

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

JULIO SANDOVAL,

Plaintiff,

v.

DIAZ, *et al.*,

Defendants.

Case No. 1:20-cv-01314-NONE-BAM (PC)

ORDER DENYING PLAINTIFF’S MOTION FOR
DISCOVERY OR TO COMPEL DISCOVERY AS
PREMATURE

(ECF No. 23)

Plaintiff Julio Sandoval (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed a first amended complaint on February 2, 2021, which is pending screening before the Court. (ECF No. 20.)

On March 1, 2021, Plaintiff filed a document titled “Order to Show Cause for an Preliminary Injunction.” (ECF No. 23.) Upon review of the contents, the Court construes the filing as a motion for discovery or to compel discovery from defendants.

Plaintiff’s motion for discovery is premature and shall be denied without prejudice. As noted above, the Court has not screened Plaintiff’s first amended complaint to determine whether it is subject to dismissal or whether the action should proceed to discovery on Plaintiff’s claims. 28 U.S.C. § 1915(e)(2)(B)(ii) (“Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that . . . the action or appeal . . . fails to state a claim upon which relief may be granted.”) The first amended

complaint has not been ordered served, no defendants have appeared, and discovery has not been opened.

Though Plaintiff argues that discovery should be permitted prior to service on any defendant, Plaintiff has made no showing that such a need exists here. Furthermore, the pendency of this action does not give the Court jurisdiction over prison officials in general. Summers v. Earth Island Inst., 555 U.S. 488, 491–93 (2009); Mayfield v. United States, 599 F.3d 964, 969 (9th Cir. 2010). The Court’s jurisdiction is limited to the parties in this action and to the viable legal claims upon which this action is proceeding. Summers, 555 U.S. at 491–93; Mayfield, 599 F.3d at 969. As the Court has not yet found service of the first amended complaint appropriate on any defendants, there are no other parties to this action over which the Court has jurisdiction.

Accordingly, Plaintiff's motion for discovery or to compel discovery, (ECF No. 23), is
HEREBY DENIED, without prejudice, as premature.

IT IS SO ORDERED.

Dated: March 3, 2021

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE